

REMARKS/ARGUMENTS

This amendment is in response to the Final Official Action mailed on September 20, 2004, the shortened statutory period for a response being set to expire on Monday, December 20, 2004. A request for continued examination is also submitted herewith. Claims 10-19 are currently pending in the application.

Initially, Applicant wishes to thank the Examiner for extending the courtesy of a telephonic interview with Applicant's attorney, on Tuesday, December 14, 2004. During the interview, Applicant's attorney discussed ways in which to overcome the rejections made by the Examiner in the Final Official Action. Specifically, the features of the Applicant's claimed invention that were not disclosed or suggested by U.S. Patent No. 4,071,399 ("Prough"), the primary reference relied upon by the Examiner to reject all of the claims pending in the application, were discussed. The Examiner agreed that there were features present in Applicant's invention that were not present in Prough. The Examiner and Ms. Mayo discussed possible claim amendments that would distinguish the Applicant's invention over Prough, and possibly place the application in condition for allowance. At the conclusion of the interview, the Examiner stated that the Applicant should submit a formal amendment and provide arguments regarding the differences between the Applicant's invention and Prough.

I. CLAIM AMENDMENTS

Applicant has amended Claim 10 to recite the steps of "removing said calcium-containing spent liquor from said digester and storing said calcium-containing spent liquor in a storage unit; allowing said lignocellulose containing material to continue being treated while said calcium-containing spent liquor is stored in said storage unit" and "reintroducing said

calcium-containing spent liquor in said storage unit back into said digester so as to displace said cooking liquor from said digester using at least a portion of said displaced calcium-containing spent liquor being reintroduced into said digester." Applicant submits that these amendments are supported by the specification, and that no new matter has been added. See Paragraphs 40-48.

Applicant has also added new claim 18, which is drawn to "monitoring a calcium content of said calcium-containing spent liquor in said storage unit and controlling a flow of said calcium-containing spent liquor based on said calcium content." As indicated by the Examiner, there is support in the application for this claim amendment and this feature is not taught or suggested by the prior art. Furthermore, Applicant submits that no new matter has been added. Applicant therefore contends that this claim is also in condition for allowance.

**II. PROUGH DOES NOT TEACH THE
LIMITATIONS OF APPLICANT'S CLAIMED INVENTION**

Proough does not teach Applicant's claimed invention. Applicant's claimed invention requires removing portions of the displaced calcium-containing spent liquor from the digester, storing the calcium-containing spent liquor in a storage unit, and reintroducing the calcium-containing liquor back into the digester at a subsequent stage of treatment, and preferably at the initial states of the terminal displacement. See Paragraph 47. In stark contrast, Proough teaches a continuous process for the displacement impregnation of cellulosic chip material with digesting liquid. Although Proough teaches the removal of some digestive fluid from the process, the digestive liquid is removed during each stage of the process, and immediately recirculated back into the process during or at the end of each stage. Thus, liquid is removed at the impregnation stage and recirculated back into the impregnation stage; it is also

removed during the digestion stage, and recirculated back into the digestion stage; and it is removed from the wash zone and recirculated back into the wash zone. Consequently, calcium-containing liquids are never removed from the treatment process, but are continually recirculated throughout the system. Prough therefore does not teach "removing said calcium-containing spent liquor from said digester and storing said calcium-containing spent liquor in a storage unit; allowing said lignocellulose containing material to continue being treated while said calcium-containing spent liquor is stored in said storage unit" and "reintroducing said calcium-containing spent liquor in said storage unit back into said digester so as to displace said cooking liquor from said digester using at least a portion of said displaced calcium-containing spent liquor being reintroduced into said digester."

III. THE EXAMINER APPEARS TO HAVE MISCHARACTERIZED OR MISUNDERSTOOD APPLICANT'S STATEMENTS REGARDING THE 35 U.S.C. § 112 REJECTIONS

In the Official Action dated March 18, 2004, the Examiner has rejected claims 10-17 for indefiniteness because it was allegedly "not clear if the displacing occurs in the cooking stage or in the impregnation stage." In the responsive amendment dated June 15, 2004, Applicant traversed the Examiner's indefiniteness rejection and concluded that "the claims are consistent with the specification, indicating that displacement in Step C does not occur during impregnation or cooking, but takes place in a pretreatment stage between the impregnation and cooking stage." In the Final Official Action, the Examiner dropped the 35 U.S.C. §112 rejections because "Applicant indicates that heating takes place in the pretreatment step and not in the cooking zone. It is noted that this step would have been obvious over the heated liquor added to the pretreatment step of Prough, e.g., liquor coming from

heater 63." Applicant did not make this assertion in response to the 35 U.S.C. §112 rejection, nor did Applicant believe that the Examiner made the 35 U.S.C. §112 rejection on the basis that the Examiner did not understand at what stage heating occurred. Rather, as indicated above, Applicant responded to the Examiner's rejection regarding an inability to ascertain when displacement occurs. Accordingly, Applicant respectfully asserts that the Examiner mischaracterized or misunderstood the statements made by the Applicant regarding the 35 U.S.C. §112 rejections. Because it is clear when displacement occurs, Applicant renews the request for the Examiner to withdraw the 35 U.S.C. § 112 rejection on this basis.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: December 20, 2004

Respectfully submitted,

By April M. Mayo
April M. Mayo

Registration No.: 54,298
LERNER, DAVID, LITTENBERG,
KRUMLOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090
(908) 654-5000
Attorney for Applicant

533514